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14 Attorneys for Defendant, AT&T Umbrella Benefit Plan No. 3

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 VERONICA VARGAS,)	No. 3:18-cv-02508 RS
)	
15 Plaintiff,)	STIPULATION TO PERMIT FILING
)	OF AMENDED COMPLAINT BY
16 v.)	PLAINTIFF, VERONICA VARGAS;
)	PROPOSED ORDER
17 AT&T UMBRELLA BENEFIT PLAN)	
18 NO. 3,)	
19 Defendants.)	
_____)	

20 Defendant, AT&T Umbrella Benefit Plan No. 3, and plaintiff, Veronica Vargas through their
21 respective counsel of record hereby stipulate pursuant to Federal Rules of Civil Procedure, Rule 15(a),
22 to allow plaintiff to file an Amended Complaint correctly naming defendant as “AT&T Umbrella
23 Benefit Plan No. 3,” rather than “AT&T Umbrella Benefit Plan No. 1.”

24 Plaintiff’s proposed First Amended Complaint is attached hereto as Exhibit A.

25 Federal Rules of Civil Procedure, Rule 15(a) allows a party to amend a pleading “by written
26 consent of the adverse party.” Defendant, through their counsel of record, has consented to the filing
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1 of the amended complaint attached hereto as Exhibit A. Defendant does not waive and expressly
2 reserves all defenses in the instant case.
3

4 CAMPBELL LITIGATION, PC
5

6 Dated: August 23, 2018
7

8 By: /s/ Daniel M. Combs

9 Attorneys for Defendant, AT&T Umbrella Benefit Plan No. 3
10

11 Dated: August 23, 2018

12 LAW OFFICE OF P. RANDALL NOAH

13 By: /s/ P. Randall Noah

14 Attorney for Plaintiff, Veronica Vargas
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17 IT IS SO ORDERED
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20 Dated: 8/23/18
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24 United States District Judge
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EXHIBIT A

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9 UNITED STATES DISTRICT COURT,
10
11 NORTHERN DISTRICT OF CALIFORNIA

12 VERONICA VARGAS,

CASE NO.

13 Plaintiff,

FIRST AMENDED COMPLAINT
29 USC §1132(a)(1)(B)

14 vs.

15 AT&T UMBRELLA BENEFIT PLAN
16 NO. 3,

17 Defendants.
18 _____/

19 PLAINTIFF, VERONICA VARGAS, ALLEGES AS FOLLOWS:

20 **JURISDICTION**

21 1. This action arises under the Employee Retirement
22 Income Security Act of 1974, 29 USC §§1001 et seq., and more
23 particularly 29 USC §1132(a)(1)(B) thereof. This court has
24 jurisdiction under 29 USC §1132(f), which grants to the federal
25 courts concurrent jurisdiction to determine claims under 29 USC
26 §§1001 et seq.

27 2. Venue is proper under 29 USC §1132(g) in that the
28 defendants do business within the jurisdictional limits of the
United States District Court Northern District of

1 California.

2 3. Plaintiff was at the time the contract was formed, and
3 at all times herein mentioned, a resident of Whittier,
4 California.

5 4. Plaintiff is informed and believes that Defendant,
6 AT&T Umbrella Benefit Plan No. 3 ("AT&T) is, and at all times
7 herein mentioned was administered out of Dallas, Texas.

8 **ALLEGATIONS CONCERNING RELIEF SOUGHT**

9 5. Plaintiff is employed by AT&T as a Client Solutions
10 Executive 3. Her job requires sharp cognitive ability and
11 concentration during an eight hour (up to twelve hour) work
12 shift, forty to sixty hours per week. Physical requirements
13 include the ability to drive, sit, concentrate, present and key
14 board for long periods of time throughout the workday, and
15 drive and meet with clients for up to four hours at a time to
16 give product presentations. AT&T requires Ms. Vargas to meet
17 with customers at their jobsite. Plaintiff's last day of work
18 was on March 20, 2017, due to difficulties with a pregnancy.
19 Plaintiff's son was born premature on April 6, 2017, with life
20 threatening health problems. Ms. Vargas soon developed severe
21 depression, anxiety, insomnia and panic attacks due to anxiety
22 over the health of her new baby, along with pregnancy related
23 sciatica. Her primary doctor then took her off work,
24 diagnosing the above numerous conditions which made work at
25 AT&T impossible for the short term

26 Complaint

1 disability period beginning March 20, 2017 and continuing into
2 the long term disability up through present.

3 6. When plaintiff was determined to be disabled from her
4 employment in March, 2017, there was in existence for AT&T
5 employees, including the plaintiff, a certain short and long
6 term disability insurance plan self funded by AT&T and
7 administered by Sedgwick Claims Management Services.

8 7. The short and long term disability insurance plan was
9 to provide disability payments to any employee covered by the
10 plan, including plaintiff, who suffered a total disability from
11 their job at AT&T, due to mental or physical illness, injury or
12 disease.

13 8. Plaintiff's severe medical conditions listed above
14 led to a total disability from her occupation as a Client
15 Solutions Executive 3, as determined by her medical doctor, and
16 she applied for benefits under the AT&T short and long term
17 disability insurance plan administered by Sedgwick.
18 Plaintiff's application for benefits was based on the severe
19 cognitive and physical limitations she was experiencing due to
20 the above diagnosed conditions, and the opinion of plaintiff's
21 treating physician that she could not return to work in her
22 former occupation with AT&T from the time she left work in
23 March 2017 up through present.

24 9. Plaintiff's personal physician stated that plaintiff
25 was, and is, disabled from returning to work in

26 Complaint
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2 client services due to her mental and physical health.

3 10. Plaintiff accordingly applied for benefits under
4 defendant's short and long term disability plan, and her claim
5 was first accepted for approximately 13 weeks before being
6 denied. Plaintiff appealed defendant's decision in accord with
7 the requirements of her policy, and that appeal process has
8 been exhausted as set forth in a letter sent
9 to plaintiff dated November 1, 2017. Having been denied short
10 term disability benefits, plaintiff was told that she was also
11 precluded from long term disability benefits. No payment has
12 been received by plaintiff under the short or long term
13 disability plan at issue after July 4, 2017.

14 11. The relevant portion of defendant's Disability
15 Income Plan reads as follows:

16 "You are considered disabled for purposes of Short Term
17 Disability Benefits if you are found by the Claims
18 Administrator to be Disabled. Disabled means that you are
19 absent from Active Employment and unable to perform the duties
20 of your Customary job due to illness (including pregnancy) or
21 injuries."

22 12. Defendant breached their obligation under the
23 disability plan by denying coverage for plaintiff's disability
24 payments when plaintiff met all of the above criteria by
25 submitting her treating physician's reports
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27 Complaint
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1 which verified the mental and physical illnesses and work
2 disability. Defendant simply disagreed with the treating
3 physicians, arbitrarily relying on their own consultants'
4 subjective determination of the degree of plaintiff's
5 disability instead of the findings and conclusions of
6 plaintiff's personal physicians and plaintiff's statements.

7 13. Plaintiff at all times herein mentioned has performed
8 all the terms and conditions of the defendant's short and long
9 term disability plans to be performed.

10 14. As a proximate result of defendant's failure and
11 refusal to perform its obligations under the short and long
12 term disability plan, plaintiff has been compelled to retain
13 counsel to protect her rights under the plan, incurring legal
14 fees and costs that are recoverable pursuant to 29 USC §1145.

15 WHEREFORE, plaintiff prays judgment against defendant as
16 follows:

- 17 1. For compensatory damages;
18 2. For costs of suit herein;
19 3. For reasonable attorney fees paid by plaintiff
20 pursuant to 29 USC §1145;
21 4. For prejudgment interest; and
22 5. For such other and further relief as the court may
23 deem proper.

24 DATED: August 23, 2018 Law Offices Of P. Randall Noah

25 By: /s/ P. Randall Noah
26 P. Randall Noah Attorney for Plaintiff, Veronica Vargas

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28 Complaint